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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,160	07/01/2001	Charles Eldering	T705-13	9699
27832	7590	11/17/2006	EXAMINER	
TECHNOLOGY, PATENTS AND LICENSING, INC./PRIME			ALVAREZ, RAQUEL	
2003 SOUTH EASTON RD			ART UNIT	
SUITE 208			PAPER NUMBER	
DOYLESTOWN, PA 18901			3622	

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/857,160

Applicant(s)

ELDERING ET AL.

Examiner

Raquel Alvarez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,15-22 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-4,15-22 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This office action is in response to communication filed on 10/17/2006.
2. Claims 1-4, 5-14 and 15-22 are presented for communication.
3. The Examiner didn't previously addressed claims 15-22 and therefore the period will be restarted from the mailing date of this action.

### **Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-8, 10-13, 15-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Williams et al.(5,977,964 hereinafter Williams).

With respect to claim 1, 5-7, 10-12, Williams teaches a method for identifying a subscriber (Abstract and col. 3, lines 14-19). Monitoring a plurality of viewing sessions (i.e. viewing activities such as volume control, channel changes while watching a cable or satellite program is monitored)(Figure 1, col. 5, lines 52-59); clustering the viewing sessions wherein the sessions within a cluster have a common identifier representative of a subscriber selection data (i.e. the collection of viewing sessions and related data based on the user's viewing habits and activities is recorded in user profile database 800); identifying a subscriber from the clusters of viewing sessions based on the subscriber selection data (i.e. the system determines which user of a plurality of users is

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currently using the system by comparing received inputs and current settings to at least a subset of the user profiles for at least a subset of the plurality of entertainment system users)(col. 3, lines 14-19).

With respect to claims 2-3, Williams further teaches generating a program characteristics vector and a demographic vector for each of the viewing sessions (i.e. based on the characteristics for the program, the demographic for that user is determined. Example, a child or an adult is using the system)(col. 6, lines 40-49); processing the program characteristics vector and the demographic vector to generate one or more clusters of session data vectors (i.e. based on the nature of the program and the demographic of the user a profile is determined for that particular member of the household)(col. 6, lines 25-49).

With respect to claim 4, Williams further teaches generating a signature signal based upon the EPG related data (i.e. based upon the uses interactions, an identifier is selected for the user)(col. 5, lines 64-, col. 6, lines 1-12); and correlating the signature signal to one or more common identifiers (i.e. the user's identifier is matched to the other common identifiers for that user)(col. 5, lines 64-, col. 6, lines 1-12).

With respect to claims 8 and 13, Williams further teaches that the subscriber selection data is time of day viewing data (col. 7, lines 59 to col. 8, lines 1-3).

With respect to claim 15, Williams teaches a method of identifying a subscriber, in a data processing system (Abstract). Obtaining a record of previous viewing sessions (Figure 8); grouping the previous viewing sessions into at least one session group according to at least one common characteristic (Figure 8); receiving a plurality of inputs from a subscriber (Figure 3, 302); comparing said plurality of inputs to said at least one session group (Figure 3, 304); and determining if said subscriber is characterized according to one of said at least one session groups (Figure 8).

Claims 16-18 further recite creating a probabilistic determination of a subscriber profile of said at least one session group based on the subscriber selection data and targeting ads based on said probability (i.e. based on the user's selection, it determines if a child is using the system and providing cereals or toys advertisement)(col. 6, lines 40-49).

With respect to claims 19-22, Williams further teaches that the determination is based on the program viewed, channel changed, program guide accessed and volume sequence (Figure 8).

**Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams further in view of Hutcheson et al. (5,465,308 hereinafter Hutcheson).

Claims 9 and 14 further recite utilizing Fourier transformation. Williams does not specifically teach using Fourier transformation. On the other hand, Hutcheson teaches a pattern recognition system that utilizes Fourier transformation (Abstract). It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included using Fourier transformation in the system of Williams because such a modification would enabled easier analysis of the monitored subscriber activities of Williams by placing the data function into a representation that is easier to work with.

**Point of contact**

6. The double patenting rejections have been withdrawn.

7. Applicant argues that Williams doesn't teach clustering the viewing sessions wherein the sessions within a cluster have a common identifier representative of subscriber selection data. The Examiner disagrees with Applicant because in Williams the system first groups all the viewing sessions in order to determine a common identifier (i.e. which user of the known users) is using the system based on the user's selections.

8. Applicant argues that Williams doesn't teach clustering based on a common identifier representative of subscriber selection. The Examiner disagrees with Applicant

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because first the user's characteristics and similarities are grouped in order to determine which user out of the group of users is using the system (see Figure 3).

9. Applicant argues that Williams doesn't teach comparing a plurality of subscriber selections to the subscriber selection data corresponding to the clusters of viewing sessions. The Examiner disagrees with Applicant because Williams teaches that based on the plurality of subscriber selections to the subscriber selection data it determines if the user is a child or adult using the entertainment system.

**Conclusion**

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

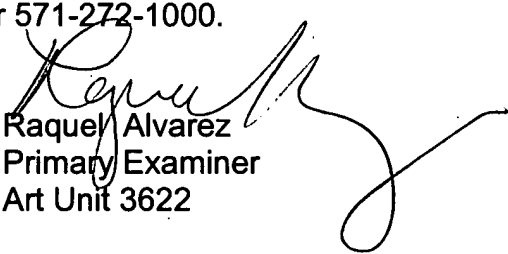
**Point of contact**

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Raquel Alvarez  
Primary Examiner  
Art Unit 3622

R.A.  
11/3/2006